

CRIMINAL EXTRADITION PROCEDURES

SECTION 1

The Chairman of the Judiciary Committee of the Three Affiliated Tribes Tribal Business Council (hereinafter referred to as the Judiciary Committee Chairman), or any individual designated by him to act in his absence, shall have the authority to have apprehended and delivered up to the executive authority of any Indian tribe, state, or the United States, any person charged with or convicted of a felony, who has fled from justice and is found within the exterior boundaries of the Fort Berthold Reservation.

SECTION 2

A formal demand for extradition must be made in writing by the demanding sovereign alleging that the individual was present within the jurisdiction of the demanding sovereign at the time of the commission of the alleged crime and that, thereafter, he fled from the jurisdiction of the sovereign. Accompanying the formal demand shall be a copy of any warrant outstanding against the individual, a copy of any judgment of conviction or any sentence imposed in execution thereof, or a statement by an appropriate agent of the demanding sovereign that the individual has escaped from confinement or has violated the terms or conditions of his bail, probation, or parole. Additionally, the Judiciary Committee Chairman shall receive a copy of any indictment, a copy of any information or complaint supported by an affidavit, or a copy of an affidavit made before a magistrate or judge in said jurisdiction. The indictment, information, complaint, or affidavit made before a magistrate or judge must substantially charge the individual whose extradition is demanded with having committed a felony under the laws of that sovereign. The copy of the indictment, information, complaint, affidavit, judgment of conviction, or sentence shall be authenticated by an appropriate agent of the demanding sovereign.

SECTION 3

If the Judiciary Committee Chairman determines that the demand should be complied with, he shall cause a judge of the Fort Berthold Tribal Court to sign a warrant for apprehension which shall be directed to each Fort Berthold law enforcement office for execution. The warrant shall authorize any Fort Berthold law enforcement officer to apprehend the individual at any time and any place where he may be found within the Fort Berthold Reservation, and to command the aid of all Fort Berthold law enforcement officers in the execution of the warrant.

SECTION 4

No individual apprehended under such warrant shall be delivered directly over to an agent of the demanding sovereign. He shall first be taken forthwith before a Tribal judge who shall inform him of the demand made for his extradition, the felony with which he has been charged or of which he has been convicted, his right to demand and secure legal counsel, and his right to a full hearing to challenge the proposed extradition.

SECTION 5

A full hearing shall be held within seventy-two (72) hours after the individual is apprehended to test the validity of the arrest. It will be presumed that the individual arrested desires a full hearing, unless the individual waives such hearing by executing in the presence of a Tribal judge a writing which states that he consents to the return to the demanding sovereign without a full hearing on the proposed extradition.

SECTION 6

If, from the examination of the evidence presented at a hearing before a Tribal judge, it appears that the individual held is, in fact, the individual whose extradition is demanded and that he has fled from justice, the judge shall

by an order reciting his determination, commit him to a Tribal detention facility until such time, not exceeding thirty (30) days, as the Judiciary Committee Chairman has surrendered him to an agent of the demanding sovereign.

SECTION 7

Unless the offense, with which the individual has been charged or of which he has been convicted, is shown to be an offense punishable by death or life imprisonment under the laws of the jurisdiction in which it was committed, the Tribal judge may, in lieu of confinement, admit the person arrested to bail by bond, with sufficient sureties in such a sum as he deems proper, until he is surrendered to an agent of the demanding sovereign.

SECTION 8

The Judiciary Committee Chairman shall also have the authority to demand the return of an individual charged with a crime, with escaping from confinement, or with violating the terms or conditions of his bail, probation, or parole within the Fort Berthold Reservation, from the executive authority of any other sovereign authorized to receive such demand.

SECTION 9

When the return to the Fort Berthold Reservation of an individual charged with or convicted of a crime within the Reservation is required, a Tribal judge shall present to the Judiciary Committee Chairman a written application for the return of such individual. The application shall state the name of the individual, the crime with which he has been charged or of which he has been convicted, the approximate time, place and circumstances of its commission, and the jurisdiction in which he is believed to be, including location of the individual in such jurisdiction, at the time the application is made. The application shall certify that, in the opinion of the judge, the ends of justice require the arrest and return of the individual to the Reservation for trial or other hearing and that the proceeding is not instituted to enforce a private claim.

SECTION 10

An individual returned to the Reservation by means of extradition based on a criminal charge shall not be subject to personal service of process in any civil action arising out of the same circumstances involved in the criminal proceeding, until he has been finally convicted or, if acquitted, until he has had reasonable opportunity to return to the jurisdiction from which he was extradited.

SECTION 11

Nothing contained in these Procedures shall be deemed to constitute a waiver by the Three Affiliated Tribes of their right, power, or privilege to try such demanded individual for any crime committed within the Reservation or of their right, power, or privilege to regain custody of such individual by extradition proceedings for the purpose of trial, sentence, or punishment for any crime committed within the Reservation.